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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,314	03/06/2001	Peter V. Radatti	17-00	2982

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EXAMINER

JACKSON, JENISE E

ART UNIT PAPER NUMBER

2131

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,314

Applicant(s)

RADATTI ET AL.

Examiner

Jenise E Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Ji et al.(5,623,600).

3. As per claim 1, Ji discloses intercepting and processing code on a communications channel(see col. 2, lines 39-42, 54-64); a protocol parser(see col. 5, lines 39-66). The Examiner asserts that the Applicant does not define a protocol parser, for the purpose of applying art the protocol parser is the proxy server in Ji. Ji et al. discloses a protocol parser because the proxy server is in between the application layer and the transport layer and examines packets transmitted, and intercepts then to determine if they contain viruses(see fig. 4, sheet 4, col. 5, lines 39-67, col. 6, lines 1-11). The Examiner asserts that the proscribed code scanner is the virus scanner of Ji(see col. 7, lines 59-65). The virus scanner intercepts files and examines the files by checking the extension of file names(see col. 7, lines 33-40); whereby the protocol parser intercepts the code traveling on the channel and transmits the code for review by the proscribed code scanner(see col. 7, lines 29-65).

4. As per claim 2, Ji et al. discloses whereby the protocol parser transmits the code to the proscribed code scanner through the protocol scanner(see col.7, lines 29-65). The proxy server(i.e. protocol parser) inherently discloses a protocol scanner, because it reviews the code

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that was received from the parser, it checks the file type to determine if the file type is a type that is likely to contain a virus(see col. 7, lines 23-45).

5. As per claim 3, Ji et al. discloses whereby the proscribed code scanner further includes, a scanning means an indicator means, whereby the indicator means provides an indication of the presence of proscribed code after scanning the intercepted code(see col.11, lines 57-67, col. 12, lines 1-40).

6. As per claim 4, Ji et al. discloses whereby the proscribed code scanner includes a virus scanner(see col. 7, lines 58-67, col. 11, lines 1).

7. As per claim 5, Ji et al. discloses wherein the protocol parser further includes a configuration means for configuring interception parameters(see col. 9, lines 1-27).

8. As per claim 6, Ji et al. discloses wherein the protocol scanner includes a configuration means for configuring interception parameters (see col. 7, lines 51-67).

9. As per claim 7, Ji et al. discloses a protocol parser(see col. 5, lines 39-66); a protocol scanner(see col. 7, lines 29-65); and a proscribed code scanner includes a scanning means and indicator means; whereby the protocol parser transmits the code to the proscribed code scanner through the protocol scanner, and whereby the indicator means provides an indication of the presence of proscribed code after scanning the intercepted code(see col. 11, lines 57-67, col. 12, lines 1-40).

10. As per claim 8, Ji et al. discloses intercepting the code; parsing the code; scanning the code for the presence of proscribed code(see col. 7, lines 29-67); and providing an indicator for the presence of the proscribed code(see col. 11, lines 57-67, col. 12, lines 1-40).

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11. As per claim 9, Ji et al. discloses returning the code to the communication channel if the indicator is negative (see col. 7, lines 29-46).

12. As per claim 10, Ji et al. discloses further indicating the presence of the proscribed code if the indicator is positive (see col. 7, lines 50-67).

13. As per claim 11, Ji et al. discloses wherein the step of intercepting the code further includes intercepting the code according to configured parameters (see col. 8, lines 6-34).

14. As per claim 13, Ji et al. discloses wherein the step of scanning the code for the presence of proscribed code includes scanning the code for the presences of viruses(see col. 7, lines 29-67).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ji et al.(5,623,600).

17. As per claim 12, Ji et al. discloses the step of providing a separate system inserted in the communications channel(see col. 2, lines 54-67, and with at least one of the steps of intercepting the code; scanning the code for the presence of proscribed code(see col. 7, lines 50-67), and providing an indicator for the presence of the proscribed code, occurring on the separate machine(see col. 3, lines 4-16). However, Ji et al. does not disclose decrypting code.

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18. The Examiner takes Official Notice that it is well-known in the art to have encryption/decryption, the motivation is that encrypting and decryption code, insures that only the intended recipient can view the code.

Response

19. The Applicant states that Ji(5,623,600) does not disclose a protocol parser because Ji only operates on two predetermined protocols, FTP and SMTP. The Examiner asserts that Ji does disclose a protocol parser because Ji's proxy server is in between the application and transport layer and intercepts and examines the packets on the network(see col. 5, lines 39-67, col. 6, lines 1-11). The Examiner agrees with the Applicant that Ji does disclose the protocols, FTP and SMTP. In response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., discriminating among different protocols) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, this point is moot.

20. The Applicant states that Ji does not disclose examining and intercepting packets. The Examiner disagrees with the Applicant. Ji discloses examine and intercepting packets to see if they contain viruses(see col. 3, lines 4-16).). Further, Ji discloses that the transfer of data between networks is broken down into the sending and receiving files and messages which in turn are broken down into packets(see col. 4, lines 49-55).

21. The Applicant has provided references to other prior art that contains a protocol parser. Again, Ji discloses a protocol parser as discussed above and also prior rejection. The Examiner

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has reviewed prior art, and if the Applicant wishes to add additional features to the claim limitations than the Applicant is urged to do so. The Applicant references many time throughout response that the protocol parser is limited in the protocols it parses. Again, Ji meets the claim limitation, which discloses a protocol parser.

22. The Applicant states that the Examiner using the proxy servers as protocol scanners. The proxy server(i.e. protocol parser) inherently discloses a protocol scanner, because it reviews the code that was received from the parser, it checks the file type to determine if the file type is a type that is likely to contain a virus(see col. 7, lines 23-45).

23. The Applicant states that Ji does not disclose configuring means for configuring interception parameters. The Examiner disagrees with the Applicant. Ji discloses configuring means for configuring interception parameters, because Ji discloses a protocol parser that is a that parsers protocols FTP and SMTP, thus the ports are configured to handle these protocols (see col. 7, lines 6-28).

24. Ji discloses parsing the code via protocol parser, because Ji discloses The Examiner asserts that Ji does disclose a protocol parser because Ji's proxy server is in between the application and transport layer and intercepts and examines the packets on the network(see col. 5, lines 39-67, col. 6, lines 1-11).

25. In order to further prosecution of this application and interview with the Applicant is requested. The Examiner has also, tried to reach the Attorney by phone in order to set up a day and time for an interview. If the Applicant wishes to have an interview, an interview can be set up, after the 28th of March.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenise E Jackson whose telephone number is (571) 272-3791.


The examiner can normally be reached on M-Th (6:00 a.m. - 3:30 p.m.) alternate Friday's.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



March 8, 2005



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